

# PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

To:  
KENNETH H. SAMPLES  
FITCH, EVEN, TABIN & FLANNERY  
120 SOUTH LASALLE STREET, SUITE 1600  
CHICAGO, IL 60603

## PCT

NOTIFICATION OF TRANSMITTAL OF  
THE INTERNATIONAL SEARCH REPORT AND  
THE WRITTEN OPINION OF THE INTERNATIONAL  
SEARCHING AUTHORITY, OR THE DECLARATION

(PCT Rule 44.1)

Applicant's or agent's file reference 82271/7115		Date of mailing (day/month/year)
International application No. PCT/US04/03205		FOR FURTHER ACTION See paragraphs 1 and 4 below
Applicant PIONEER LABORATORIES, INC.		International filing date (day/month/year) 05 February 2004 (05.02.2004)

1. ☒ The applicant is hereby notified that the international search report and the written opinion of the International Searching Authority have been established and are transmitted herewith.

**Filing of amendments and statement under Article 19:**

The applicant is entitled, if he so wishes, to amend the claims of the international application (see Rule 46):

**When?** The time limit for filing such amendments is normally two months from the date of transmittal of the international search report.

**Where?** Directly to the International Bureau of WIPO, 34 chemin des Colombettes  
1211 Geneva 20, Switzerland, Facsimile No.: +41 22 740 14 35

For more detailed instructions, see the notes on the accompanying sheet.

2. ☐ The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect and the written opinion of the International Searching Authority are transmitted herewith.

3. ☐ With regard to the protest against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:

☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.

☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

4. **Reminders**

Shortly after the expiration of 18 months from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90bis.1 and 90bis.3, respectively, before the completion of the technical preparations for international publication.

The applicant may submit comments on an informal basis on the written opinion of the International Searching Authority to the International Bureau. The International Bureau will send a copy of such comments to all designated Offices unless an international preliminary examination report has been or is to be established. These comments would also be made available to the public but not before the expiration of 30 months from the priority date.

Within 19 months from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase until 30 months from the priority date (in some Offices even later); otherwise, the applicant must, within 20 months from the priority date, perform the prescribed acts for entry into the national phase before those designated Offices.

In respect of other designated Offices, the time limit of 30 months (or later) will apply even if no demand is filed within 19 months.

See the Annex to Form PCT/IB/301 and, for details about the applicable time limits, Office by Office, see the *PCT Applicant's Guide*, Volume II, National Chapters and the WIPO Internet site.

Name and mailing address of the ISA/ US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230	Authorized officer Kevin P Shaver Telephone No. 703.308.0873
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Form PCT/ISA/220 (January 2004)

(See notes on accompanying sheet)

# PATENT COOPERATION TREATY

# PCT

## INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference 82271/7115	<b>FOR FURTHER ACTION</b> <div style="font-size: small; margin-top: 5px;">           see Form PCT/ISA/220            as well as, where applicable, item 5 below.         </div>	
International application No. PCT/US04/03205	International filing date ( <i>day/month/year</i> ) 05 February 2004 (05.02.2004)	(Earliest) Priority Date ( <i>day/month/year</i> ) 05 February 2003 (05.02.2003)
Applicant PIONEER LABORATORIES, INC.		

This international search report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This international search report consists of a total of 5 sheets.



It is also accompanied by a copy of each prior art document cited in this report.

**1. Basis of the Report**

- a. With regard to the language, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.



The international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).

- b. ☐

With regard to any nucleotide and/or amino acid sequence disclosed in the international application, see Box No. I.

2. ☐ Certain claims were found unsearchable (See Box No. II)

3. ☒ Unity of invention is lacking (See Box No. III)

4. With regard to the title,



the text is approved as submitted by the applicant.



the text has been established by this Authority to read as follows:

5. With regard to the abstract,



the text is approved as submitted by the applicant.



the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. With regard to the drawings,

- a. the figure of the drawings to be published with the abstract is Figure No. 12



as suggested by the applicant.



as selected by this Authority, because the applicant failed to suggest a figure.



as selected by this Authority, because this figure better characterizes the invention.

- b. ☐

none of the figures is to be published with the abstract.

# INTERNATIONAL SEARCH REPORT

International application No.

PCT/US04/03205

## Box No. II Observations where certain claims were found unsearchable (Continuation of item 2 of first sheet)

This international search report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1. ☐ Claims Nos.:  
because they relate to subject matter not required to be searched by this Authority, namely:
2. ☐ Claims Nos.:  
because they relate to parts of the international application that do not comply with the prescribed requirements to such an extent that no meaningful international search can be carried out, specifically:
3. ☐ Claims Nos.:  
because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).

## Box No. III Observations where unity of invention is lacking (Continuation of item 3 of first sheet)

This International Searching Authority found multiple inventions in this international application, as follows:  
Please See Continuation Sheet

1. ☒ As all required additional search fees were timely paid by the applicant, this international search report covers all searchable claims.
2. ☐ As all searchable claims could be searched without effort justifying an additional fee, this Authority did not invite payment of any additional fee.
3. ☐ As only some of the required additional search fees were timely paid by the applicant, this international search report covers only those claims for which fees were paid, specifically claims Nos.:
4. ☐ No required additional search fees were timely paid by the applicant. Consequently, this international search report is restricted to the invention first mentioned in the claims; it is covered by claims Nos.:

Remark on Protest

☐  
☐

The additional search fees were accompanied by the applicant's protest.

No protest accompanied the payment of additional search fees.

# INTERNATIONAL SEARCH REPORT

International application No.

PCT/US04/03205

## A. CLASSIFICATION OF SUBJECT MATTER

IPC(7) : A61B 17/58

US CL : 606/61, 69

According to International Patent Classification (IPC) or to both national classification and IPC

## B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

U.S. : 606/61, 69, 70, 71, 72, 73

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)

## C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X --- Y	US 5,904,683 A (POHNDORF et al) 18 May 1999 (18.05.1999), See entire document.	1-7, 9-22, 24-31, 33-54, 57, 58
Y	US 2002/0151899 A1 (BAILEY et al) 17 October 2002 (17.10.2002), See entire document.	8, 23, 32, 55, 56 8, 32, 55, 56
Y	US 2002/0016595 A1 (MICHELSON) 07 February 2002 (07.02.2002), See entire document.	23
X ✓	US 2001/0047172 A1 (FOLEY et al) 29 November 2001 (29.11.2001), See entire document.	59-62
A ✓	US 2001/00471174 A1 (DONNO et al) 29 November 2001 (29.11.2001), See entire document.	1-58
A	US 6,331,179 B1 (FRIED et al) 18 December 2001 (18.12.2001), See entire document.	1-58
P	US 2003/0225409 A1 (FRIED et al) 04 December 2003 (04.12.2003), See entire document.	1-58
P, E	US 2004/0127896 A1 (LOMBARDO et al) 01 July 2004 (01.07.2004), See entire document.	1-58



Further documents are listed in the continuation of Box C.



See patent family annex.

### \* Special categories of cited documents:

"A" document defining the general state of the art which is not considered to be of particular relevance

"E" earlier application or patent published on or after the international filing date

"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)

"O" document referring to an oral disclosure, use, exhibition or other means

"P" document published prior to the international filing date but later than the priority date claimed

"T"

later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X"

document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y"

document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art

"&"

document member of the same patent family

Date of the actual completion of the international search

16 September 2004 (16.09.2004)

Date of mailing of the international search report

29 NOV 2004

Name and mailing address of the ISA/US

Mail Stop PCT, Attn: ISA/US  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Facsimile No. (703) 305-3230

Authorized officer

Kevin P Shaver

Telephone No. 703.308.0873

*Sharon H. Shaver for*

# INTERNATIONAL SEARCH REPORT

International application No.  
PCT/US04/03205

## C. (Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
T	US 2004/0127899 A1 (KONIECZYNSKI et al) 01 July 2004 (01.07.2004), See entire document.	1-62

# INTERNATIONAL SEARCH REPORT

International application No.  
PCT/US04/03205

## BOX III. OBSERVATIONS WHERE UNITY OF INVENTION IS LACKING

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1. In order for all inventions to be examined, the appropriate additional examination fees must be paid.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1. In order for all inventions to be examined, the appropriate additional examination fees must be paid.

Group I, claim(s) 1-58, drawn to a bone plate system with a screw lock.

Group II, claim(s) 59-62, drawn to a bone plate system with out a bone screw.

and it considers that the International Application does not comply with the requirements of unity of invention (Rules 13.1, 13.2 and 13.3) for the reasons indicated below:

The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: Group II does not require the screw lock which is the general inventive concept in view of the prior art.

# PATENT COOPERATION TREATY

From the  
INTERNATIONAL SEARCHING AUTHORITY

To:  
KENNETH H. SAMPLES  
FITCH, EVEN, TABIN & FLANNERY  
120 SOUTH LASALLE STREET, SUITE 1600  
CHICAGO, IL 60603

## PCT

WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing (day/month/year) <b>29 NOV 2004</b>	
<b>FOR FURTHER ACTION</b> See paragraph 2 below	
Applicant's or agent's file reference <b>82271/7115</b>	
International application No. <b>PCT/US04/03205</b>	International filing date (day/month/year) <b>05 February 2004 (05.02.2004)</b>
Priority date (day/month/year) <b>05 February 2003 (05.02.2003)</b>	
International Patent Classification (IPC) or both national classification and IPC <b>IPC(7): A61B 17/58 and US Cl.: 606/61, 69</b>	
Applicant <b>PIONEER LABORATORIES, INC.</b>	

**1. This opinion contains indications relating to the following items:**

- ☒ Box No. I      Basis of the opinion
- ☐ Box No. II      Priority
- ☐ Box No. III      Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☒ Box No. IV      Lack of unity of invention
- ☒ Box No. V      Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI      Certain documents cited
- ☐ Box No. VII      Certain defects in the international application
- ☐ Box No. VIII      Certain observations on the international application

**2. FURTHER ACTION**

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

**3. For further details, see notes to Form PCT/ISA/220.**

Name and mailing address of the ISA/ US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230	Authorized officer <i>Sharon M. Greve for</i> Kevin P Shaver Telephone No. 703.308.0873
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WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US04/03205

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This opinion has been established on the basis of a translation from the original language into the following language \_\_\_\_\_, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

☐ a sequence listing

☐ table(s) related to the sequence listing

b. format of material

☐ in written format

☐ in computer readable form

c. time of filing/furnishing

☐ contained in international application as filed.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:



**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.

PCT/US04/03205

**Box No. IV Lack of unity of invention**

1. ☒ In response to the invitation (Form PCT/ISA/206) to pay additional fees the applicant has:
- ☒ paid additional fees
  - ☐ paid additional fees under protest
  - ☐ not paid additional fees
2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is
- ☐ complied with
  - ☒ not complied with for the following reasons:  
See the lack of unity section of the International Search Report(Form PCT/ISA/210)

4. Consequently, this opinion has been established in respect of the following parts of the international application:
- ☒ all parts.
  - ☐ the parts relating to claims Nos. \_\_\_\_\_

**WRITTEN OPINION OF THE  
INTERNATIONAL SEARCHING AUTHORITY**

International application No.  
PCT/US04/03205

**Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Claims <u>8, 23, 32, 55, 56</u>	YES
	Claims <u>1-7, 9-22, 24-31, 33-54, 57-62</u>	NO
Inventive step (IS)	Claims <u>NONE</u>	YES
	Claims <u>1-62</u>	NO
Industrial applicability (IA)	Claims <u>1-62</u>	YES
	Claims <u>NONE</u>	NO

**2. Citations and explanations:**

Claims 1-7, 9-22, 24-31, 33-54, 57-58 lack novelty under PCT Article 33(2) as being anticipated by Pohndorf et al..  
Pohndorf discloses a bone plate system comprising:

A plate 10;

Screws 42;

A locking cap 44;

Cams on the cap (threads); and

The locking cap is actuated in the bore of the plate and allows the screw to be inserted there through.

Claims 8, 32, 55, and 56 lack an inventive step under PCT Article 33(3) as being obvious over Pohndorf in view of Bailey. Bailey teaches the use of split ring. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Pohndorf with a split ring as taught by Bailey.

Claim 23 lacks an inventive step under PCT Article 33(3) as being obvious over Pohndorf in view of Michelson. Michelson teaches the use of a tool. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Pohndorf with the tool as taught by Michelson.

Claims 59-62 lacks novelty under PCT Article 33(2) as being anticipated by Foley et al.  
Foley teaches the use of a bone plate with two circular bores and 6 oblong bores.